

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

## **SENATE BILL 1211**

### **AN ACT**

AMENDING SECTION 35-726, ARIZONA REVISED STATUTES; AMENDING TITLE 35, CHAPTER 5, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 35-762; PROVIDING FOR THE DELAYED REPEAL OF SECTION 35-726, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT AND SECTION 35-762, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; RELATING TO INDUSTRIAL DEVELOPMENT AUTHORITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 35-726, Arizona Revised Statutes, is amended to  
3 read:

4           35-726. Approval of general plan before issuing bonds; fee;  
5           definition

6       A. Bonds shall not be issued by a corporation for the purpose of  
7 financing single family dwelling units pursuant to section 35-706, subsection  
8 A, paragraph 11 or 12 without approval of a general plan by its governing  
9 body. The corporation shall submit a general plan for each respective series  
10 of bonds to its governing body. The general plan shall briefly describe:

11           1. The amount of the proposed bonds.

12           2. The maximum term of the bonds.

13           3. The maximum interest rate on the bonds.

14           4. The need for the bond issue.

15           5. The terms and conditions for originating or purchasing mortgage  
16 loans or making loans to lenders.

17           6. The area in which the single family dwelling units to be financed  
18 may be located.

19           7. The proposed fees, charges and expenditures to be paid for  
20 originators, servicers, trustees, custodians, mortgage administrators and  
21 others.

22           8. All insurance requirements with respect to mortgage loans,  
23 mortgaged property, mortgagors, originators, servicers and trustees.

24           9. The anticipated date of issuance of the bonds.

25       B. The governing body shall review general plans submitted by  
26 corporations pursuant to subsection A of this section. In reviewing the  
27 plans the governing body shall consider:

28           1. Whether the amount of the mortgage monies proposed to be made  
29 available is reasonably related to the demand for the mortgage monies.

30           2. Whether the terms of the general plan are justifiable in the  
31 context of the transaction and in the context of similar transactions.

32           3. Whether the fees, costs and expenditures as set forth in the  
33 general plan are reasonably related to the services provided.

34           4. For projects of owner-occupied single family dwelling units to be  
35 occupied by persons of low and moderate income and financed pursuant to  
36 section 35-706, subsection A, paragraphs 11 and 12, whether the proposed  
37 mortgage monies to be made available will fulfill a public purpose by  
38 providing housing for persons of low and moderate income or by encouraging  
39 single family developments in all participating jurisdictions, including such  
40 jurisdictions' slum or blighted areas as defined in section 36-1471.

41       C. The governing body shall approve or disapprove the general plan not  
42 later than thirty days after receipt of the plan. If the governing body does  
43 not act upon the general plan within thirty days from the date of receipt,  
44 the general plan shall be deemed approved. If a general plan is approved,  
45 the corporation may issue the series of bonds covered by the general plan

1 with a total principal amount, maximum term and maximum interest rate no  
2 greater than that which is set forth in the general plan. The origination  
3 and servicing fees pertaining to mortgage loans to be financed in accordance  
4 with the general plan shall not exceed those proposed in the general  
5 plan. The corporation may vary other items in the general plan upon a  
6 finding that the variation is minor and that the variations will not impair  
7 the security for the bonds or substantially increase the cost of financing  
8 the single family dwelling units and the findings of the corporation shall be  
9 conclusive.

10 D. The governing body may charge any corporation submitting a general  
11 plan for review a fee of not to exceed ten thousand dollars together with  
12 reimbursement of its actual costs and expenses incurred in reviewing the  
13 general plan.

14 E. A corporation shall not issue bonds, other than refunding bonds the  
15 proceeds of which are used exclusively to refund a prior bond issue, to  
16 finance a multifamily residential rental project, sanitarium, clinic, medical  
17 hotel, rest home, nursing home, skilled nursing facility or life care  
18 facility as prescribed in section 20-1801, unless the department approves the  
19 project, EXCEPT THAT A REVIEW REQUIRED PURSUANT TO THIS SECTION MAY BE  
20 CONDUCTED PURSUANT TO SECTION 35-762 IF AN INDUSTRIAL DEVELOPMENT AUTHORITY  
21 HAS REVIEWED AND APPROVED THE BOND ISSUANCE AND THE PROJECT IS FOR A  
22 NONPROFIT NURSING HOME, REST HOME, SKILLED NURSING FACILITY OR LIFE CARE  
23 FACILITY. The department, with or without a hearing, shall review the  
24 project and consider at least the following factors:

25 1. The demand for and feasibility of the project in the area set forth  
26 in the application to the corporation.

27 2. The terms and conditions of the proposed bonds.

28 3. The proposed use of bond proceeds.

29 4. The benefit to the public if the project provides rental housing  
30 for persons of low and moderate income or encourages rental housing in slum  
31 or blighted areas as defined in section 36-1471.

32 5. If the project consists of a nursing home, or a life care facility  
33 as prescribed in section 20-1801, the benefit to the public of the project,  
34 including the proposed rent, fees and other charges of the project in  
35 relation to the level of services to be offered.

36 F. Subsection E of this section does not apply to bonds issued to  
37 finance a sanitarium, clinic, medical hotel, rest home, nursing home, skilled  
38 nursing facility, or life care facility as prescribed in section 20-1801, if  
39 the facility is to be owned and operated by this state or a political  
40 subdivision or agency of this state.

41 G. The department with or without a hearing shall approve or  
42 disapprove the project not later than thirty days after receipt of the  
43 request for approval. If the project is approved, the corporation may issue  
44 the bonds described in the approval request with the total principal amount,  
45 maximum term and maximum interest rate no greater than as set forth in the

1 request. The department shall charge each applicant submitting a project  
2 approval request pursuant to this subsection a fee of not to exceed five  
3 thousand dollars together with reimbursement of its actual costs and expenses  
4 incurred in reviewing the project. Beginning on October 1, 2002, the  
5 department shall remit the fees to the state treasurer for deposit in the  
6 Arizona department of housing program fund established by section 41-3957.

H. For the purposes of this section, "department" means the Arizona department of housing.

9           Sec. 2. Title 35, chapter 5, article 5, Arizona Revised Statutes, is  
10       amended by adding section 35-762, to read:

11           35-762. Multiple reviews of certain nonprofit project  
12           financing; definition

13           A. AN AGENCY MAY COOPERATE IN THE REVIEW OF A PROJECT FINANCING IN THE  
14 FOLLOWING MANNER:

15           1. AN AGENCY MAY ADOPT IN WHOLE OR IN PART SUBSTANTIALLY SIMILAR  
16 REVIEW WORK PERFORMED ON THE PROJECT FINANCING BY ANOTHER AGENCY ALSO CHARGED  
17 WITH REVIEW OF THE PROJECT FINANCING.

18           2. ONE OR MORE AGENCIES MAY ENTER INTO AN INTERGOVERNMENTAL AGREEMENT  
19          FOR THE PURPOSE OF CONSOLIDATING ALL OR PART OF THEIR REVIEW ACTIVITIES OF  
20          THE PROJECT FINANCING.

21           B. AN AGENCY MAY TO THE EXTENT PRACTICABLE SCHEDULE ITS REVIEW OF A  
22 PROJECT FINANCING IN A MANNER THAT MINIMIZES THE OVERALL REVIEW TIME OF THE  
23 PROJECT FINANCING BY ALL AGENCIES.

24 C. AN AGENCY THAT ADOPTS IN WHOLE OR IN PART REVIEW WORK PERFORMED ON  
25 THE PROJECT FINANCING BY ANOTHER AGENCY IS DEEMED FOR ALL PURPOSES TO HAVE  
26 COMPLIED WITH ITS REVIEW RESPONSIBILITIES AS IF THE REVIEW WORK HAD BEEN  
27 PERFORMED BY THE AGENCY ITSELF.

28 D. FOR THE PURPOSES OF THIS SECTION, "AGENCY" MEANS AN INDUSTRIAL  
29 DEVELOPMENT AUTHORITY ESTABLISHED PURSUANT TO THIS CHAPTER, THE ARIZONA  
30 DEPARTMENT OF HOUSING AND ANY OTHER ARIZONA STATE AGENCY CHARGED WITH REVIEW  
31 OF THE PROJECT FINANCING FOR A NONPROFIT NURSING HOME, NONPROFIT REST HOME,  
32 NONPROFIT SKILLED NURSING FACILITY OR NONPROFIT LIFE CARE FACILITY AS DEFINED  
33 IN SECTION 20-1801.

### 34 Sec. 3. Delayed repeal

35           Section 35-726, Arizona Revised Statutes, as amended by this act, and  
36 section 35-762, Arizona Revised Statutes, as added by this act, are repealed  
37 from and after December 31, 2010.